



## CONNECTICUT DEPARTMENT OF CONSUMER PROTECTION

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MICHELLE H. SEAGULL | COMMISSIONER

### Testimony of Michelle Seagull Commissioner of Consumer Protection

General Law Committee  
Public Hearing, February 22, 2022

**HOUSE BILL 5149 “AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING FOOD, DRUGS AND MEDICAL DEVICES”**

**HOUSE BILL 5150, “AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING CONSUMERS, RETAILERS AND CREDIT TRANSACTIONS”**

**HOUSE BILL 5151 “AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING HOMEMAKER-COMPANION AGENCIES, CONTRACTORS, HEATING FUEL, FOOD ESTABLISHMENTS, CONTINUING EDUCATION AND APPRAISALS”**

**HB 5146 “AN ACT ESTABLISHING A SUPERMARKET FOOD DONATION”**

**SB 121 “AN ACT CONCERNING THE FAIR RIGHT TO REPAIR ACT”**

Senator Maroney, Senator Witkos, Representative D’Agostino, Representative Rutigliano and Honorable Members of the General Law Committee, thank you for the opportunity to offer testimony regarding several of the bills on your agenda for today’s public hearing.

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I am here today to testify in support of House Bills 5149, 5150 and 5151. These bills were requested by the Department of Consumer Protection (DCP) and we greatly appreciate this Committee's thoughtful consideration of these proposals. I am also here to provide comments about House Bill 5146 and Senate Bill 121.

*HOUSE BILL 5149 "AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING FOOD, DRUGS AND MEDICAL DEVICES"*

This bill would make multiple changes to DCP's pharmacy and drug control statutes. These changes are primarily technical and intended to ensure the Drug Control statute remains current with federal changes and State practices.

Section 1 would amend Connecticut General Statutes (CGS) Section 21a-248 to make it consistent with federal law, which allows for wholesalers of schedule II controlled substances to place orders electronically.

Section 2 would amend CGS 20-617a by removing unnecessary reference to the United States Pharmacopeia sterile compounding standards as it relates to adding flavoring to prescription medications. The statute continues to require pharmacists to comply with good manufacturing principles and other federal regulations.

Section 3 corrects drafting oversight from last session in CGS 21-192 by adding nonresident pharmacies to the definition of a "long term care pharmacy."

Section 4 would modify CGA 20-578 to provide a similar degree of protection against disclosure for investigations and inspections under the medical marijuana statute as exists for other types of public health inspections and investigations conducted by DCP and the Department of Public Health.

Finally, section 5 seeks to revise CGS Section 28-32 so that during a declaration of emergency, pharmacies could transfer medical devices to another pharmacy that is authorized to

have such medical device under federal and state law. This ability to transfer during an emergency already exists for controlled substances.

*HOUSE BILL 5150, “AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING CONSUMERS, RETAILERS AND CREDIT TRANSACTIONS”*

This proposed bill clarifies that a business’ failure to properly redeem a coupon entitles a consumer to a discount consistent with the value of the coupon. It also provides clarity around the law for credit card surcharges.

Sections 1 and 2 of this bill amend CGA 21a-79 and 21a-79b to make clear that the failure to redeem a paper or electronic coupon or to timely remove an in-store sign that provides for a limited-time discount does not entitle a consumer to the item at no cost. Rather, the business must provide the discount advertised on the coupon or the store sign that was not timely removed. This is consistent with how the Department has been interpreting the law but helps to remove any confusion as to whether coupons should be treated the same as a posted price.

Section 3 addresses a number of issues in CGS 42-133ff related to the state’s prohibition on credit card surcharges. Specifically, it clarifies that the prohibition on surcharges does not apply to state agencies, municipalities or the judicial branch where other provisions of the law permit credit card surcharges. These changes will help address consumer confusion regarding the lawfulness of government bills that sometimes include credit card surcharges. The proposed amendments also require greater transparency about the availability of cash discounts so that consumers have that information prior to completing their transaction, including transactions conducted online or by phone.

*HOUSE BILL 5151 “AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING HOMEMAKER-COMPANION AGENCIES, CONTRACTORS, HEATING FUEL, FOOD ESTABLISHMENTS, CONTINUING EDUCATION AND APPRAISALS”*

Section 1 of this bill, prohibits a homemaker companion agency or its employees from acting as the power of attorney for a person that has contracted for services from the agency. There are limited exceptions for when the homemaker companion is an immediate family member.

Section 2 authorizes online continuing education for plumbers and electricians so long as the online class allows for live interaction with the instructor. Through executive orders during COVID, electricians and plumbers were permitted to complete their continuing education online and that experiment proved successful.

Sections 3-5 amend CGS 16-17, 16a-23m and 16a-23-o by expanding the definition of “heating fuel” to include fuel used for cooking and power generation so that the protections and requirements in the law related to heating fuel will encompass fuel purchased for these other purposes.

Sections 6-8 amend CGS 21a-152, 21a-156 and 21a-160 to update the food warehouse and manufacturing statutes for purposes of consistency and to clarify that local health officials can enforce orders related to unsanitary conditions at retail bakers.

Section 9-11 fix drafting errors in Sections 16 and 23 of Public Act 21-37. The fix to section 16 of Public Act 21-37 would allow trades contractors to bill for emergency work where there is not a written contract. The fix to Section 23 aligns the statute with regulations related to continuing education for the board of accountancy.

Finally, Section 12 makes a minor change to CGA 20-500 to address a recent federal audit of the appraisal management statute.

#### *HB 5146 “AN ACT ESTABLISHING A SUPERMARKET FOOD DONATION PROGRAM”*

This bill would create a supermarket food donation program and require supermarkets to donate items to DCP to administer and implement the program “within available appropriations” and require supermarkets to donate excess edible items to food banks on a periodic basis. While

DCP appreciates the intent of this proposal, there aren't sufficient staffing or administration resources to administer and implement such a program within available appropriations. Additionally, some of the items that supermarkets would be required to donate past their best buy dates, such as products like canned and perishable items or baby food good could create liability issues. Finally, it is not clear how DCP would enforce these proposed provisions if a supermarket failed to make food donations periodically. DCP is happy to work with the proponents of this bill, but the language needs further clarification and the Department would need resources implement and administer such a program.

### *SENATE BILL 121 "AN ACT CONCERNING THE FAIR RIGHT TO REPAIR ACT"*

This bill would require original equipment manufacturers of digital electronic equipment to provide the owners of such equipment and independent repair providers with an opportunity to diagnose, maintain or repair such equipment on terms that are similar to the terms that original equipment manufacturers provide to authorized repair providers. A violation of this requirement would be deemed an unfair or deceptive trade practice.

The scope of this bill is substantial and involves major business entities involved in manufacturing, as well as diagnostics and repair. The bill requires regulation of digital equipment manufacturers in any industry other than motor vehicle manufacturers. This covers computer, coffee makers, video consoles, smart speakers, refrigerators, printers, phones, and so much more.

Since the authority to bring a Connecticut Unfair Trade Practices Act case on behalf of the state rests with DCP, this would require significant resources to properly handle the complaints and enforcement actions associated with the passage of this bill. To bring a CUTPA case, you would have to determine whether the operations of a certain company fall under one of the entity definitions, which is not obvious. For example, certain definitions require a determination of whether parties are "affiliated." DCP would also need to prove the subjective standard of what "fair and reasonable terms" are, as well as whether documentation withheld

properly qualifies as a trade secret. DCP would need investigative and legal staff to take on something of this substantial scope.